

Regulation for National Energy Regulatory Authority

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Overview

National Energy Regulatory Authority “NERA” is enacted pursuant to Articles 5, 6 and 7 of the Power Services Regulation Act.

Purpose

Create a transparent and independent mechanism for regulating the electricity sector

Provide a transparent and streamlined mechanism for investors for determination of tariffs, issuance of licenses and other important aspects of energy sector governance

Support MEW in development of policies to attract private sector investment in electricity generation, transmission, distribution, import and export

Develop policies and standards which help in growth and improvement in performance of the licensees in providing reliable and cost-effective electricity

Promote competition in the electricity sector and ensure provision of cost-effective electricity to the public, including the private sector, without any discrimination

Structure

Six chapters and 32 articles

Chapter 1: General Provisions

Chapter 2: Incorporation, Appointment and Term of Office for Members of the Authority

Chapter 3: Proceedings and Power of the Authority

Chapter 4: Duties of the Authority

Chapter 5: Grants, Account, Audit and Report

Chapter 6: Final Provisions

Conceived in Two Phases:

Phase I: NERA to exist within the MEW as a semi-independent entity (first 3 years)

Phase II: NERA will then become independent operating outside the framework of the MEW

Scope:

This Regulation shall apply to all the licensees, consumers, equipment and service providers to electricity sector

Management

The Authority shall consist of the following Members, namely:

- A Chairperson and four Members in addition to the Chairperson
- The Chairperson and the Members of the Authority shall be appointed by the Government.

The Chairperson and other Members shall hold office for a term of five (5) years, except for the initial (first) appointment, from the date on which they enter upon their office and can be reappointed for one more tenure only

The Members and the Chairperson of the Authority shall be responsible for governance of the Authority including the policy and general administration of the affairs and business of the Authority in accordance with the provisions of this Regulation.

Phase I

Phase I: NERA to exist within the MEW as a semi-independent entity (first 3 years)

Phase II: NERA will then become independent operating outside the framework of the MEW

Budget

During the Initial Period 3 years, the Authority shall be supported by the Government budget and development resources.

After the Initial Period, the Authority shall become an independent budgetary unit and shall generate its finances as follows:

- A. The revenues of the Authority may consist of revenues collected from licensing fees, administration fees and charges which are defined in a separate manual.
- B. The Authority shall define a procedure for management of its funds that is fully transparent and audited annually by a reputable auditing firm fully in line with the international auditing standards and Public Finance

Next steps

Presenting to the Council of Ministers/High Economic Council for approval in March 2018

Expediting NERA's Tashkeel (employees chart) by the Independent Civil Service Reform Commission by the end of July

Official launch in August 2018

Present Status

The NERA structure submitted to Independent Administrative and civil service Commission

The NERA structure Approved by IACSC in Principe .

Term of Reference for all position ready for announcement.

Duties and Authorities of the Power Service Regulatory

The Agency shall have the following duties and authorities:

- 1- To submit electrical energy consumption tariffs for approval to the Government after confirmation of the Ministry of Energy and Water.
- 2- To provide of facilities to attract domestic and foreign investment in the area of energy services under this law.
- 3- To prepare the National Development Program for supply of electricity to rural areas the use of renewable sources in collaboration with the Ministry of Rural Rehabilitation and Development.

- 4- To regulate and guarantee the quality and quantity of electricity in accordance with the provisions of this law.
- 5- To register, issue, extend, suspend, and revoke the activity licenses
under this law.
- 6- To address the complaints of consumers and license holders and to resolve disputes arising out of the mentioned issues in accordance with the provisions of this law.
- 7- To create technical, economic, financial, and marketing committees, and other energy advisory committees.
- 8- To appoint auditors to take care of the provisions of this law and the terms set forth in the license.
- 9- To issue orders to prevent violations of the terms of licenses under this law.

- 10- To impose cash fine under this law.
- 11- To establish a single calculating unit system for transparent calculation of power supply and its control.
- 12- To identify dominant personality in the energy supply market.
- 13- To assign dominant personality in the market to provide electricity services to consumers and other license holders without discrimination under this law.
- 14- To continuously monitor electrical energy services all over the country.
- 15- To create electrical energy services database.
- 16- To monitor the activities of the license holders in order to comply with international conventions of power sector to which Afghanistan has acceded.

- 17- To determine technical standards for electrical equipment and its approval through concerned authorities.
- 18- To regulate and monitor the activities of license holders in accordance with the provisions of this law.
- 19- To protect the interests of electricity consumers.
- 20- To prevent the abuse of dominant force in the market.
- 21- To provide healthy competition environment for the license holders.
- 22- To identify the contingent violations of the provisions of this law and the terms of the licenses.
- 23- To oblige the license holders to compensate damages arising from violation of the terms of licenses.
- 24- To submit annual report to the office of the Ministry of Energy and Water.
- 25- To perform other duties stipulated in this law

Encourage and support

Investment in energy services and its infrastructure facilities in accordance with the provisions of the Investment Law and the provisions of this law and the investor benefits the privileges and possessions of investment under the relevant laws and regulations.

Determine the dominant force in the market (Current DABS)

Holder of license who is determined by the Department as a dominant force in the market, is obliged to submit a written request to the Department within (10) business days according to the procedures, in order to record their new responsibilities as the dominant force in the market.

Foreign investment

Foreign investment in energy services and its infrastructure facilities are subject to the private investment law in following cases:

Access to banking facilities,

The transfer of capital and its profit,

Transfer of the main foreign debt and its other payments,

Sales of approved enterprise and Its income transfer

Expropriations, compensation and the transfer of funds and the right of refer to the courts.

Holders of licenses, importers and vendors of the electricity energy equipment have to perform their tax obligations under the law.

Abuse of a dominant force in the market

License holder, who is, cannot do activities that lead to the abuse of the market.

The following are deemed to be abusing a dominant force in the market:

Failure to respond to the competitor's demand on providing limited sources within a month after the demand and with reasonable conditions and limits, provided that such a facility is available to the license holder.

Bringing together the energy services with the imposition of the conditions, limits and determination of the price by the license holder who has a dominating force in the market and impose it as a condition or conditions to the new competitors to reduce competition.

Overtaking the acquisition or preservation of limited resources, including the right of passage, to promote energy services activities in order to prevent the entry of other competitors in the market.

Offer services in a price lower than the cost of service or any other rate that is approved by the Ministry of Energy and Water.

Cont.

The cases that the Ministry of Energy and Water has specifically approved such discounts in the tariffs are exempted.

Failure to implement obligations of interpersonal connection under this law.

Discrimination in the provision of interpersonal connections access or other services or facilities to competitors. Where the conditions are admissible based on the difference in prices, failure of facilities or available resources, are exempted.

The following measures that prevents the development of the market and entry of the competitor on the market, also are forbidden:

Determine prices to the competitor during wholesales to increase or decrease the prices in order to harm the competitor or both so that the benefit or entry of the competitor to the market is impossible.

Discount on a service that serves to reduce competition and compensate it in another service.

Cont.

Demanding from the license holder or forcing the competitor to avoid the sale.

Setting up the technical specifications of the relevant network or its price in a way that prevents the network activities and/or the purchasing of the competitor's services.

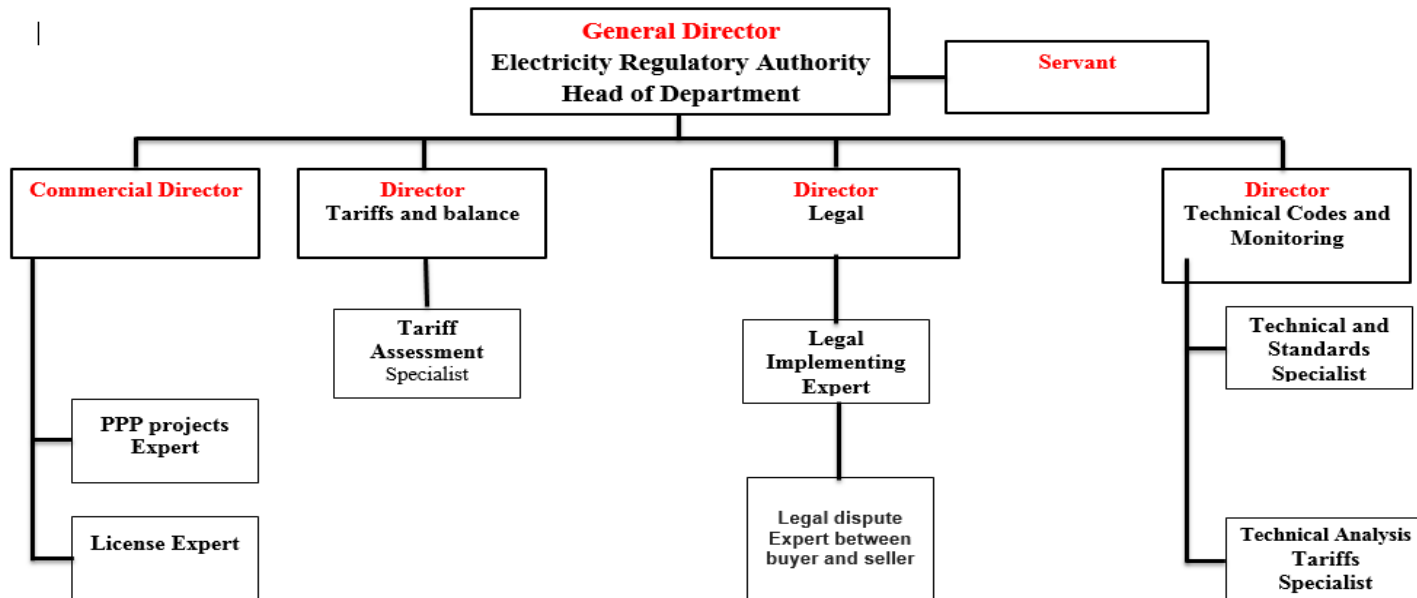
Avoid providing timely technical information, resources, information and other business data needed to new competitors to provide services.

Using the information gained from competitor on interpersonal connection or supply of services by the license holder who has the dominant force, in order to compete with them.

Power service regulatory structure

For year 1397 (just For information)

Electricity Regulatory Authority



Thank you for your attention